

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA  
DURHAM DIVISION

In Re: Calvin O'Neal Suiter XXX-XX-2808	)	
Gilda Dixon Suiter XXX-XX-2893	)	
509 Uzzle Street	)	Case No. B-10-80951
Durham, NC 27713	)	
	)	
Debtor	)	

**OBJECTIONS TO CONFIRMATION OF PROPOSED PLAN**

Unsecured creditor, Marilyn Welch, by and through the undersigned counsel, hereby submits the following objections to the proposed plan:

1. The proposed plan, if adopted would constitute an abuse of the bankruptcy laws and protections afforded by the Court and would be inequitable to the unsecured creditors. In their petition, the Debtors state their current income is \$13,839 per month. The Debtors' petition claims expenses for a trade or business and other expenses that total over \$9,000.00 per month on lines 16 and 17 of schedule J. This is after having claimed charitable deductions of \$2,200.00 per month. As Mr. Suiter is an employee, it appears that the Debtors are subsidizing a business being run by Mrs. Suiter. As such, the expenses appear to be grossly overstated.

2. The proposed plan and bankruptcy filing appears to be not in good faith in that, subsequent to the judgment entered against her, upon information and belief, Debtor Gilda Dixon Suiter deceptively turned her daycare business and lease over to her relative in order to defraud her creditors. The same type of business is being operated out the facility that Debtor Gilda Dixon Suiter rents from Century Plaza Partners. Ms. Suiter indicated to Marilyn Welch that she was involved in the business known as Bright Beginnings, which now occupies the space. While

Mrs. Suiter now denies any connection to the prior business, the opportunity for fraud in this situation is too strong to approve this plan without further investigation.

3. On page 63 of their Petition, the Debtors falsely state that neither Debtor had been a party to any civil action in the last year. Marilyn Welch filed a civil action against Debtor Gilda Suiter for breach of contract, unfair and deceptive trade practices and other causes of action in an action bearing civil file number 08 CVS 6108 (Durham County). The action was tried on February 2<sup>nd</sup> and 3<sup>rd</sup> of 2010 and resulted in a verdict against Debtor Gilda Dixon Suiter. A Judgment was entered by the court *nunc pro tunc* effective on April 15, 2010. Pursuant to the Judgment, Debtor Gilda Dixon Suiter owes Marilyn Welch "\$24,150 plus interest on the principal at the legal rate from January 17, 2008 until paid in full." The costs of that action (Durham County, 08 CVS 6108) were also taxed to Debtor Gilda Dixon Suiter per Judge Hardin's Order. Apparently, Mrs. Suiter wishes to avoid the Judgment and has indicated she will pay nothing. Welch intends to file an adversary proceeding to liquidate the claim and to object to discharge of the amount. The Plaintiff in that action, Marilyn Welch, has further appeal rights from the final judgment of the court, which she has not been able to exercise as a result of the automatic stay.

4. The proposed plan does not in good faith use all of the available disposable income to retire the Welch indebtedness.

WHEREFORE, Marilyn Welch hereby requests the Court that it:

1. Reject Debtors' Proposed Plan.
2. Afford Marilyn Welch the opportunity to be heard on this Motion.
3. Modify the plan to provide for payment of the Marilyn Welch claim (when liquidated) and deny discharge to any unpaid sums.
4. Grant such other and further relief as the Court may deem just and

proper.

Respectfully submitted this 24<sup>th</sup> day of August, 2010.

STARK LAW GROUP, PLLC

BY: /s/ Thomas H. Stark

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CERTIFICATE OF SERVICE

This is to certify that the undersigned has this date served the *Objections to Confirmation of Proposed Plan* in the following manner:

(X) by CM-ECF and First Class Mail:

John T. Orcutt  
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6616-203 Six Forks Road  
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Richard M. Hutson, II  
Chapter 13 Office  
302 East Pettigrew Street, Suite B-140  
P.O. Box 3613  
Durham, NC 27702

This the 24<sup>th</sup> day of August, 2010.

STARK LAW GROUP, PLLC

By: /s/ Thomas H. Stark

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